

## CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS SERVICE PROVIDERS.

### Subchapter P. TEXAS UNIVERSAL SERVICE FUND.

#### §26.401. Texas Universal Service Fund (TUSF).

(a) **Purpose.** The purpose of the Texas Universal Service Fund (TUSF) is to implement a competitively neutral mechanism that enables all residents of the state to obtain the basic telecommunications services needed to communicate with other residents, businesses, and governmental entities. Because targeted financial support may be needed in order to provide and price basic telecommunications services in a manner to allow accessibility by consumers, the TUSF will assist telecommunications providers, as defined in §26.420, in providing basic local telecommunications service at reasonable rates in high cost rural areas. In addition, the TUSF will reimburse qualifying entities for revenues lost as a result of providing Lifeline services to qualifying low-income consumers under the Public Utility Regulatory Act (PURA); reimburse telecommunications carriers providing statewide telecommunications relay access service and qualified vendors providing specialized telecommunications devices and services for the disabled; and reimburse the Texas Department of Human Services, the Texas Department of Housing and Community Affairs, the Texas Department for the Deaf and Hard of Hearing, the TUSF administrator, and the Public Utility Commission for costs incurred in implementing the provisions of PURA Chapter 56 (relating to Telecommunications Assistance and Universal Service Fund).

#### (b) **Programs included in the TUSF.**

- (1) Section 26.403 of this title (relating to the Texas High Cost Universal Service Plan (THCUSP));
- (2) Section 26.404 of this title (relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan);
- (3) Section 26.406 of this title (relating to the Implementation of the Public Utility Regulatory Act §56.025);

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- 1           (4)    Section 26.408 of this title (relating to Additional Financial Assistance  
2                   (AFA));
- 3           (5)    Section 26.410 of this title (relating to Universal Service Fund  
4                   Reimbursement for Certain IntraLATA Service);
- 5           (6)    Section 26.412 of this title (relating to Lifeline Service and Link Up Service  
6                   Programs);
- 7           (7)    Section 26.414 of this title (relating to Telecommunications Relay Service  
8                   (TRS));
- 9           (8)    Section 26.415 of this title (relating to Specialized Telecommunications  
10                  Assistance Program (STAP));
- 11          (9)    Section 26.417 of this title (relating to Designation as Eligible  
12                  Telecommunications Providers to Receive Texas Universal Service Funds  
13                  (TUSF));
- 14          (10)   Section 26.418 of this title (relating to Designation of Common Carriers as  
15                  Eligible Telecommunications Carriers to Receive Federal Universal Service  
16                  Funds);
- 17          (11)   Section 26.420 of this title (relating to Administration of Texas Universal  
18                  Service Fund (TUSF));
- 19          (12)   Section 26.421 of this title (relating to Designation of Eligible  
20                  Telecommunications Providers to Provide Service to Uncertificated Areas);
- 21          (13)   Section 26.422 of this title (relating to Subsequent Petitions for Service to  
22                  Uncertificated Areas);
- 23          (14)   Section 26.423 of this title (relating to High Cost Universal Service Plan for  
24                  Uncertificated Areas where an Eligible Telecommunications Provider (ETP)  
25                  Volunteers to Provide Basic Local Telecommunications Service); and
- 26          (15)   Section 26.424 of this title (relating to Audio Newspaper Program).

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**§26.420. Administration of Texas Universal Service Fund (TUSF).**

(a) **Purpose.** The provisions of this section establish the administration of the Texas Universal Service Fund (TUSF).

(b) **Programs included in the TUSF.**

(1) Section 26.403 of this title (relating to the Texas High Cost Universal Service Plan (THCUSP));

(2) Section 26.404 of this title (relating to the Small and Rural Incumbent Local Exchange Company (ILEC) Universal Service Plan);

(3) Section 26.406 of this title (relating to the Implementation of the Public Utility Regulatory Act §56.025);

(4) Section 26.408 of this title (relating to Additional Financial Assistance (AFA));

(5) Section 26.410 of this title (relating to Universal Service Fund Reimbursement for Certain IntraLATA Service);

(6) Section 26.412 of this title (relating to Lifeline Service and Link Up Service Programs);

(7) Section 26.414 of this title (relating to Telecommunications Relay Service (TRS));

(8) Section 26.415 of this title (relating to Specialized Telecommunications Assistance Program (STAP));

(9) Section 26.417 of this title (relating to Designation as Eligible Telecommunications Providers to Receive Texas Universal Service Funds (TUSF));

(10) Section 26.418 of this title (relating to Designation of Common Carriers as Eligible Telecommunications Carriers to Receive Federal Universal Service Funds);

(11) Section 26.420 of this title (relating to Administration of Texas Universal Service Fund (TUSF));

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- 1           (12) Section 26.421 of this title (relating to Designation of Eligible  
2           Telecommunications Providers to Provide Service to Uncertificated Areas);
- 3           (13) Section 26.422 of this title (relating to Subsequent petitions for Service to  
4           Uncertificated Areas);
- 5           (14) Section 26.423 of this title (relating to High Cost Universal Service Plan for  
6           Uncertificated Areas Where an Eligible Telecommunications Provider  
7           Volunteers to Provide Basic Local Telecommunications Service); and
- 8           (15) Section 26.424 of this title (relating to Audio Newspaper Program).
- 9   (c)   **Responsibilities of the commission.** The commission is the official governing  
10       agency for the TUSF, but may delegate the ministerial functions of TUSF  
11       administration to another entity (the TUSF administrator) through contractual  
12       agreement.
- 13       (1)   **Monitoring, and supervising TUSF administration.** The commission  
14       reserves the exclusive power to revise rules related to the operation and  
15       administration of the TUSF and to monitor and supervise such operation and  
16       administration.
- 17       (2)   **Annual audit.** The commission annually shall provide for an audit of the  
18       TUSF by an independent auditor. The costs of the audit are costs of the  
19       commission that are incurred in administering the TUSF, and therefore shall  
20       be reimbursed from the TUSF.
- 21       (3)   **Inquiry into administration of the TUSF.** The commission may, upon its  
22       own motion, upon the petition of the commission staff or the Office of Public  
23       Utility Counsel, initiate an inquiry into any aspect of the administration of the  
24       TUSF. Any other party may initiate a complaint proceeding pursuant to the  
25       commission's procedural rules.
- 26       (4)   **Selection of the TUSF administrator.**

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- 1 (A) The commission shall have the sole discretion in the selection of the  
2 TUSF administrator. The selection of the TUSF administrator shall  
3 be based on a competitive bidding process.
- 4 (B) The TUSF administrator must meet the technical qualifications as  
5 provided in subsection (d)(1) of this section as well as other  
6 requirements as determined by the commission.
- 7 (5) **Contract term of the TUSF administrator.** The commission shall determine  
8 the duration of the TUSF administrator's contract. Prior to expiration of the  
9 contract term, the commission may discharge the TUSF administrator of its  
10 duties upon 60-days written notice.
- 11 (d) **TUSF administrator.** The TUSF administrator serves at the discretion of the  
12 commission.
- 13 (1) **Technical requirements of the TUSF administrator.** The TUSF  
14 administrator shall:
- 15 (A) be neutral and impartial, not advocate specific positions to the  
16 commission in proceedings not related to the administration of the  
17 universal service support mechanisms, and not have a direct financial  
18 interest in the universal service support mechanisms established by  
19 the commission;
- 20 (B) possess demonstrated technical capabilities, competence, and  
21 resources to perform the duties of the TUSF administrator as  
22 described in this section; and
- 23 (C) be bonded or bondable.
- 24 (2) **Duties of the TUSF administrator.** The TUSF administrator will  
25 administer the TUSF in accordance with the rules set forth in this section and  
26 in accordance with the guidelines established by the commission in its  
27 contract with the TUSF administrator. The TUSF administrator's general  
28 duties shall include, but not be limited to:

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- 1 (A) managing the daily operations and affairs of the TUSF in an efficient,  
2 fair and competitively neutral manner;
- 3 (B) taking steps necessary to ensure that all eligible telecommunications  
4 providers (ETPs) are in compliance with the relevant sections of this  
5 title under which they are receiving universal service support;
- 6 (C) calculating and collecting the proper assessment amount from every  
7 telecommunications provider and verifying that all  
8 telecommunications providers are in compliance with the Public  
9 Utility Regulatory Act §56.022;
- 10 (D) disbursing the proper support amounts, ensuring that only eligible  
11 recipients receive funds, and verifying that all recipients are in  
12 compliance with the section or sections of this title under which they  
13 are eligible to receive support;
- 14 (E) taking steps necessary, including audits, to ensure that all  
15 telecommunications providers that are subject to the TUSF  
16 assessment are accurately reporting required information;
- 17 (F) taking steps necessary, including audits, to ensure that all recipients of  
18 TUSF funds are accurately reporting required information;
- 19 (G) submitting periodic summary reports to the commission regarding the  
20 administration of the TUSF in accordance with specifications  
21 established by the commission;
- 22 (H) notifying the commission of any telecommunications providers that  
23 are in violation of any of the requirements of this section, §26.417 of  
24 this title and any reporting requirements; and
- 25 (I) performing other duties as determined by the commission.
- 26 (e) **Determination of the amount needed to fund the TUSF.**
- 27 (1) **Amount needed to fund the TUSF.** The amount needed to fund the TUSF  
28 shall be composed of the following elements.

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- 1 (A) Costs of TUSF programs. The TUSF administrator shall compute and  
2 include the costs of the following TUSF programs:
- 3 (i) Texas High Cost Universal Service Plan, §26.403 of this title;  
4 (ii) Small and Rural ILEC Universal Service Plan, §26.404 of this  
5 title;  
6 (iii) Implementation of the Public Utility Regulatory Act §56.025,  
7 §26.406 of this title;  
8 (iv) Additional Financial Assistance, §26.408 of this title;  
9 (v) Reimbursement for Certain IntraLATA Service, §26.410 of  
10 this title;  
11 (vi) Lifeline Service and Link Up Service, §26.412 of this title;  
12 (vii) Telecommunications Relay Service, §26.414 of this title;  
13 (viii) Specialized Telecommunications Assistance Program (STAP),  
14 §26.415 of this title; and  
15 (ix) Audio Newspaper Program, §26.424 of this title.
- 16 (B) Costs of implementation and administration of the TUSF. The TUSF  
17 implementation and administration costs shall include appropriate  
18 costs associated with the implementation and administration of the  
19 TUSF incurred by the commission (including the costs incurred by the  
20 TUSF administrator on behalf of the commission), and any costs  
21 incurred by the Texas Commission for the Deaf and Hard of Hearing  
22 caused by its administration of the Specialized Telecommunications  
23 Assistance Program (STAP) and the Telecommunications Relay  
24 Service programs.
- 25 (C) Reserve for contingencies. The TUSF administrator shall establish a  
26 reserve for such contingencies as late payments and uncollectibles in  
27 an amount authorized by the commission.

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(2) **Determination of amount needed.** After the initial determination, the TUSF administrator shall determine, on a periodic basis, the amount needed to fund the TUSF. The determined amount shall be approved by the commission.

(f) **Assessments for the TUSF.**

(1) **Providers subject to assessments.** The TUSF assessments shall be payable by all telecommunications providers having access to the customer base; including but not limited to providers of wireline service, ~~and~~ wireless service, and Voice over Internet Protocol Service as defined in §26.5 providers of telecommunications services.

(2) **Definitions.** For the purposes of this section the following definitions apply, except that the definition of Telecommunications Provider shall apply to this subchapter:

(A) Actual intrastate telecommunications services receipts – Telecommunications services receipts that are clearly identifiable as intrastate telecommunications services receipts, as defined in subparagraph (E) of this paragraph.

(B) FCC – means the Federal Communications Commission.

(C) Interstate communications – Has the meaning assigned by 47 U.S.C. §153(22).

(D) International communications – Has the meaning assigned by 47 U.S.C. §153(17) (foreign communications).

(E) Intrastate telecommunications services receipts – Taxable telecommunications services receipts as reported by the telecommunications provider under Chapter 151 of the Texas Tax Code, with the exception of:

(i) Pay telephone service revenues received by providers of pay telephone services, which are exempt from the TUSF assessment pursuant to PURA §56.022(c)(2);

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- 1 (ii) Telecommunications services receipts from interstate  
2 communications and international communications included in  
3 telecommunications services receipts reported under Chapter  
4 151 of the Texas Tax Code; and
- 5 (iii) TUSF surcharges collected from customers.
- 6 (F) Receipts – Has the meaning assigned by Texas Tax Code §151.007.
- 7 (G) Safe-Harbor intrastate telecommunications services receipts – Means  
8 intrastate telecommunications receipts calculated by applying a  
9 commission-ordered percentage to telecommunications services  
10 receipts that are not clearly identifiable as intrastate.
- 11 (H) Telecommunications provider – Has the meaning assigned by PURA  
12 §51.002(10), including an entity providing Voice over Internet  
13 Protocol service as defined in §26.5.
- 14 (I) Telecommunications services – Has the meaning assigned by Texas  
15 Tax Code §151.0103 and 34 Tex. Admin. Code §3.344(a)(13) (West  
16 2011) (Tex. Comptroller of Pub. Accounts, Telecommunications  
17 Services).
- 18 (3) **Basis for assessments.** Assessments will be based upon the following:
- 19 (A) **Actuals.** Effective January 1, 2007, assessments shall be made to  
20 each telecommunications provider based upon its monthly taxable  
21 actual intrastate telecommunications services receipts reported by that  
22 telecommunications provider under Chapter 151 of the Texas Tax  
23 Code.
- 24 (B) **Commission-Ordered Safe Harbor.** A telecommunications  
25 provider that is unable to calculate actual intrastate  
26 telecommunications services receipts by January 1, 2007, and does  
27 not meet the *de minimus* exemption in subsection (c) of this section,  
28 may request, and the commission may grant for good cause, the  
29 modification or waiver of the requirement set forth in subsection (a)

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of this section, to allow the telecommunications provider to calculate all or some of its intrastate taxable telecommunications receipts using the relevant commission-ordered safe-harbor percentage. Requests for waiver will be subject to administrative review unless the presiding officer determines at any point during the review that the request should be docketed. The presiding officer will issue an order approving, denying or docketing the request for waiver within 180 calendar days of the filing date of the waiver request.

(i) A request for waiver must contain, at a minimum:

- (I) an affidavit from a corporate officer of the telecommunications provider attesting to the fact that the telecommunications provider is unable to calculate all or some of its actual intrastate telecommunications services receipts and, if applicable, that the telecommunications provider is using a safe harbor authorized by the FCC;
- (II) a date by which the telecommunications provider will be able to calculate actual intrastate telecommunications services receipts;
- (III) an explanation detailing why the telecommunications provider is unable to calculate actual intrastate telecommunications services receipts and why a waiver is necessary;
- (IV) a detailed description of the safe-harbor percentage that is requested and how it will be applied;
- (V) if applicable, a compliance tariff filing pursuant to paragraph (6)(C) of this subsection; and
- (IV) any other information that the telecommunications provider believes will aid in rendering of a decision.

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1 (ii) If a telecommunications provider requests a permanent waiver  
2 from reporting its TUSF assessment based on actual intrastate  
3 telecommunications services receipts, then the  
4 telecommunications provider must file a waiver containing all  
5 elements in clause (i) of this subparagraph, as well as an  
6 explanation detailing why a permanent waiver is required, and  
7 why it is in the public interest.

8 (iii) A telecommunications provider that has been granted a waiver  
9 shall apply, for the duration of that waiver, a safe-harbor  
10 percentage to its telecommunications services receipts using  
11 one of the methods described in subclauses (I) or (II) of this  
12 clause as follows:

13 (I) If a telecommunications provider is reporting interstate  
14 communications and international communications  
15 revenues for assessment for the federal universal  
16 service fund based on an FCC safe-harbor percentage,  
17 then the telecommunications provider shall apply the  
18 inverse of that percentage to its telecommunications  
19 services receipts as reported under Chapter 151 of the  
20 Texas Tax Code. The resulting total will be the  
21 telecommunications provider's safe-harbor-calculated  
22 total intrastate telecommunications services receipts to  
23 which the TUSF assessment rate shall apply pursuant  
24 to paragraph (4) of this subsection.

25 (II) If a telecommunications provider is not using an FCC  
26 safe-harbor percentage, the telecommunications  
27 provider shall apply a commission-ordered safe harbor  
28 percentage to its telecommunications services receipts  
29 under Chapter 151 of the Texas Tax Code as described

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1 in its waiver request approved by the commission. The  
2 resulting total will be the telecommunications  
3 provider's safe-harbor-calculated intrastate  
4 telecommunications services receipts to which the  
5 TUSF assessment rate shall apply pursuant to  
6 paragraph (4) of this subsection.

7 (iv) If a telecommunications provider that has been granted a  
8 waiver seeks to change its safe-harbor assessment  
9 methodology, or seeks an extension of its existing waiver, it  
10 must file another waiver request with the commission.

11 (v) A telecommunications provider may, at any time during the  
12 duration of its waiver and upon notice to the commission and  
13 the TUSF administrator, change its methodology to assess  
14 actual intrastate telecommunications services receipts. This  
15 will terminate any existing waiver.

16 (C) ***De minimus exemption.*** A telecommunications provider that is  
17 unable to calculate actual intrastate telecommunications services  
18 receipts by January 1, 2007, and whose TUSF assessment is less than  
19 \$500 per month using the relevant commission-ordered safe-harbor  
20 percentage, is not required to file a waiver request pursuant to  
21 subparagraph (B) of this paragraph.

22 (D) Intrastate telecommunications services receipts received by  
23 telecommunications providers from telecommunications services  
24 supplied to pay telephone providers for the provision of pay telephone  
25 services are subject to TUSF assessment.

26 (4) **Assessment.** Each telecommunications provider shall pay its TUSF  
27 assessment each month by multiplying the commission-approved assessment  
28 rate by the basis for assessments as determined pursuant to paragraph (3) of  
29 this subsection.

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1           (5)    **Reporting requirements.** Each telecommunications provider shall report its  
2                   taxable intrastate telecommunications services receipts under Chapter 151 of  
3                   the Tax Code to the commission or the TUSF administrator. When reporting  
4                   its intrastate telecommunications services receipts, each telecommunications  
5                   provider shall report its total taxable telecommunications services receipts  
6                   under Chapter 151 of the Tax Code, and indicate which methodology or  
7                   methodologies (*i.e.*, actual and/or commission-ordered safe-harbor  
8                   percentage) it used to arrive at its total intrastate telecommunications services  
9                   receipts.

10          (6)    **Recovery of assessments.** A telecommunications provider may recover the  
11                   amount of its TUSF assessment based on its intrastate telecommunications  
12                   services receipts from its retail customers who are subject to tax under  
13                   Chapter 151 of the Texas Tax Code, except for Lifeline and/or Link Up  
14                   services. For purposes of the recovery of the TUSF assessment, pay  
15                   telephone providers are considered retail customers subject to Chapter 151 of  
16                   the Texas Tax Code. The commission may order modifications in a  
17                   telecommunications provider's method of recovery.

18           (A)    Retail customers' bills. In the event a telecommunications provider  
19                   chooses to recover its TUSF assessment through a surcharge added to  
20                   its retail customers' bills:

21                   (i)     the surcharge must be listed on the retail customers' bills as  
22                             "Texas Universal Service"; and

23                   (ii)    the surcharge must be assessed as a percentage of intrastate  
24                             telecommunications services receipts on every retail  
25                             customers' bill, except Lifeline and/or Link Up services.

26           (B)    Commission approval of surcharge mechanism. An ILEC choosing to  
27                   recover the TUSF assessment through a surcharge on its retail  
28                   customers' bills must file for commission approval of the surcharge  
29                   mechanism.

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1 (C) Tariff and/or price sheet changes. A certificated telecommunications  
2 utility choosing to recover the TUSF assessment through a surcharge  
3 on its retail customers' bills shall file the appropriate changes as  
4 necessary to its tariff and/or price sheet and provide supporting  
5 documentation for the method of recovery.

6 (D) Recovery period. A single universal service fund surcharge shall not  
7 recover more than one month of assessments.

8 (7) **Disputing assessments.** Any telecommunications provider may dispute the  
9 amount of its TUSF assessment. The telecommunications provider should  
10 endeavor to first resolve the dispute with the TUSF administrator. If the  
11 telecommunications provider and the TUSF administrator are unable to  
12 satisfactorily resolve their dispute, either party may petition the commission  
13 to resolve the dispute. Pending final resolution of disputed TUSF assessment  
14 rates and/or amounts, the disputing telecommunications provider shall remit  
15 all undisputed amounts to the TUSF administrator by the due date.

16 (g) **Disbursements from the TUSF to ETPs, ILECs, other entities and agencies.**

17 (1) **ETPs, ILECs, other entities, and agencies.**

18 (A) ETPs. The commission shall determine whether an ETP qualifies to  
19 receive funds from the TUSF. An ETP qualifying for the following  
20 programs is eligible to receive funds from the TUSF:

- 21 (i) Texas High Cost Universal Service Plan;  
22 (ii) Small and Rural ILEC Universal Service Plan; and/or  
23 (iii) Lifeline Service and Link Up Service.

24 (B) ILECs. The commission shall determine whether an ILEC qualifies to  
25 receive support from the following TUSF programs:

- 26 (i) Implementation of the Public Utility Regulatory Act §56.025;  
27 and/or  
28 (ii) Additional Financial Assistance program.

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(C) Other entities. The commission shall determine whether other entities qualify to receive funds from the TUSF. Entities qualifying for the following programs are eligible to receive funds from the TUSF:

- (i) Telecommunications Relay Service;
- (ii) Specialized Telecommunications Assistance Program; and/or
- (iii) Audio Newspaper Program.

(D) Agencies. The commission, the Texas Department of Human Services, the Texas Commission for the Deaf and Hard of Hearing, and the TUSF administrator are eligible for reimbursement of the costs directly and reasonably associated with the implementation of the provisions of PURA Chapters 56 and 57.

**(2) Reporting requirements.**

(A) ETPs. An ETP shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.

(B) Other entities. A qualifying entity shall report to the TUSF administrator as required by the provisions of the section or sections under which it qualifies to receive funds from the TUSF.

(C) Agencies. A qualifying agency shall report its qualifying expenses to the TUSF administrator each month.

**(3) Disbursements.**

(A) The TUSF administrator shall verify that the appropriate information has been provided by each ETP, local exchange company (LEC), other entities or agencies and shall issue disbursements to ETPs, LECs, other entities and agencies within 45 days of the due date of their reports except as otherwise provided.

(B) Prior to August 31, 2007, if an electing LEC, as defined in §26.5 of this title (relating to Definitions), reduces rates in conjunction with receiving disbursements from the TUSF, the commission may not

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1                   reduce the amount of those disbursements below the initial level of  
2                   disbursements upon implementation of the TUSF, except that:

3                   (i)     if a local end user customer of the electing company switches  
4                   to another local service provider that serves the customer  
5                   entirely through the use of its own facilities and not partially  
6                   or solely through the use of unbundled network elements, the  
7                   electing LEC's disbursement may be reduced by the amount  
8                   attributable to that customer under PURA §56.021(1); or

9                   (ii)    if a local end user customer of the electing company switches  
10                  to another local service provider, and the new local service  
11                  provider serves the customer partially or solely through the use  
12                  of unbundled network elements provided by the electing LEC,  
13                  the electing LEC's disbursement attributable to that customer  
14                  under PURA §56.021(1) may be reduced according to the  
15                  commission established equitable allocation formula for the  
16                  disbursement as described in §26.403(e)(3)(C) of this title  
17                  (relating to Texas High Cost Universal Service Plan  
18                  (THCUSP)).

19                  (C)     The commission may adjust disbursements from the universal service  
20                  fund to companies using technologies other than traditional wireline  
21                  or landline technologies to meet provider of last resort obligations.

22       (h)     **True-up.** The assessment amount determined pursuant to subsections (e) and (f) of  
23                  this section shall be subject to true-up as determined by the TUSF administrator and  
24                  approved by the commission. True-ups shall be limited to a three year period for  
25                  under-reporting and a one year period for over-reporting.

26       (i)     **Sale or transfer of exchanges.**

27                  (1)     An ETP that acquires exchanges from an unaffiliated small or rural ILEC  
28                  receiving support for those exchanges pursuant to §26.404 of this title, shall

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1 receive the per-line support amount for which those exchanges were eligible  
2 prior to the sale or transfer.

3 (2) An ETP that acquires exchanges from an unaffiliated ETP receiving support  
4 for those exchanges pursuant to §26.403 of this title, shall receive the per-line  
5 support amount for which those exchanges were eligible prior to the transfer  
6 of the exchanges.

7 (j) **Proprietary information.** The commission and the TUSF administrator are subject  
8 to the Texas Open Records Act, Texas Government Code, Chapter 552. Information  
9 received by the TUSF administrator from the individual telecommunications  
10 providers shall be treated as proprietary only under the following circumstances:

11 (1) An individual telecommunications provider who submits information to the  
12 TUSF administrator shall be responsible for designating it as proprietary at  
13 the time of submission. Information considered to be confidential by law,  
14 either constitutional, statutory, or by judicial decision, may be properly  
15 designated as proprietary.

16 (2) An individual telecommunications provider who submits information  
17 designated as proprietary shall stamp on the face of such information  
18 "PROPRIETARY PURSUANT TO PUC SUBST. R. §26.420(j)".

19 (3) The TUSF administrator may disclose all information from an individual  
20 telecommunications provider to the telecommunications provider who  
21 submitted it or to the commission and its designated representatives without  
22 notifying the telecommunications provider.

23 (4) All third party requests for information shall be directed through the  
24 commission. If the commission or the TUSF administrator receives a third  
25 party request for information that a telecommunications provider has  
26 designated proprietary, the commission shall notify the telecommunications  
27 provider. If the telecommunications provider does not voluntarily waive the  
28 proprietary designation, the commission shall submit the request and the

**CHAPTER 26. SUBSTANTIVE RULES APPLICABLE TO TELECOMMUNICATIONS  
SERVICE PROVIDERS.**

**Subchapter P. TEXAS UNIVERSAL SERVICE FUND.**

- 1 responsive information to the Office of the Attorney General for an opinion
- 2 regarding disclosure pursuant to the Texas Open Records Act, Texas
- 3 Government Code, Chapter 552, Subchapter G.